Decision 02-03-051 March 21, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's Future Energy Efficiency Policies, Administration and Programs.	Rulemaking 01-08-028 (Filed August 23, 2001)

INTERIM DECISION REGARDING PACIFIC GAS AND ELECTRIC COMPANY'S FOOD SERVICE TECHNOLOGY CENTER

Recently, Pacific Gas and Electric Company (PG&E) informed the Commission of its plans to deconstruct and decommission the Food Service Technology Center (FSTC or Center), located in San Ramon, California. (Attachment A hereto.) The FSTC provides performance information on commercial food service equipment, as well as energy efficiency information and outreach to the food service industry. PG&E explains that its administration of the FSTC will end on March 31, 2002, and that it needs to begin project decommissioning immediately. Since PG&E's notification, we have heard from several parties who attest to the FSTC's usefulness in promoting energy savings, including the University of California, Berkeley and Riverside, the National Restaurant Association, Denny's Restaurants, Safeway, the City of Santa Rosa, and the U.S. Department of Energy.

The Commission currently is in the middle of its review of local energy efficiency program proposals for the 2002-03 period. One of those proposals is from a non-utility seeking to continue operation of the FSTC beyond March 31,

2002. Without ruling on the merits of that proposal, we wish to ensure adequate time for Commission consideration of that proposal.

In furtherance of that goal, on February 28, 2002, Commission Executive Director Wesley Franklin wrote to PG&E to urge it to halt the dismantling of the Center, slated to begin on March 1, 2002. (Attachment B hereto.) Mr. Franklin stated that the Commission needed time to review the local energy efficiency program proposals. Mr. Franklin also reassured PG&E that the Commission would provide PG&E the opportunity to recover its costs of running the Center beyond March 31, 2002,[1] and to recover costs of decommissioning the Center if the Commission ultimately decided not to continue funding its operation. This is that decision.

In its February 7, 2002 letter, PG&E stated that if it vacated the space the Center occupies, it would be required to return it to a suitable condition, as required by its lease, at an estimated cost between $200,000 and $250,000. PG&E acknowledged that if a third party took over the program, finding a new site or re-building the old site would be more costly and time-consuming than simply taking over the existing facilities. PG&E also opined that the third party seeking to continue the Center's operations had not included such costs in its budget. PG&E stated that it could not incur further operation and maintenance costs of the FSTC (of approximately $150,000/month) beyond March 31, 2002.

We agree that it makes no sense to have PG&E expend $200,000-$250,000 to decommission the site if we decide to continue to fund the FSTC's operations. While we cannot say one way or another whether we will continue to fund the

[1] PG&E does not require incremental funding authorization to maintain the FSTC until March 31, 2002, since it obtained such authorization in D.01-11-066.

Center, we need time for an orderly determination. Therefore, we authorize PG&E to continue operating the Center – at current expenditure levels – until we make a decision on the local program proposals. If we decide to fund the Center's continued operation, then PG&E can work with the funding recipient on the transition. If we decide not to fund ongoing operation of the FSTC in our upcoming local program decision, then PG&E will need funding to decommission the Center, which we also authorize here.

We will permit reimbursement to PG&E for reasonable expenses it incurs in connection with post March 31, 2002 activities related to continued operation and/or dismantling of the FSTC. If we approve the third party application to run the Center, PG&E shall receive its reimbursement from the funds awarded to the third party. Having the new provider reimburse PG&E makes sense since potential local program providers applied for 9 months of funding for 2002 but will not have 9 months of program activity in 2002 given the timing of the Commission's decision on local programs. If we award a third party funding to continue the FSTC, then there will be no need to fund dismantling activities. Only if we do not fund activities to continue the FSTC will PG&E receive funding for such dismantling.

PG&E shall notify the Commission's Energy Division at ztc@cpuc.ca.gov and the assigned Administrative Law Judge for this proceeding at srt@cpuc.ca.gov of any material variations (greater than or equal to 10% more than the figures given here) to its predicted expenditures as set forth above ($150,000/month for continued operation, and $200,000-$250,000 for dismantling). PG&E may create a memorandum account, entitled the FSTC Account, to keep track of such expenditures. In the meantime, PG&E shall not terminate its lease with the owner of the property occupied by the FSTC or begin dismantling activities.

Public Review and Comment

Pursuant to Rule 77.7(f)(9), we determine that public necessity requires that the otherwise 30-day period for public review and comment should be waived.

Findings of Fact

1. The FSTC provides performance information on commercial food service equipment, as well as energy efficiency information and outreach to the food service industry.

2. Several parties, including the University of California, Berkeley and Riverside, the National Restaurant Association, Denny's Restaurants, Safeway, the City of Santa Rosa, and the U.S. Department of Energy have written to the Commission attesting to the FSTC's value and urging that it not be closed while the Commission is considering local energy efficiency proposals.

3. It would be wasteful for PG&E to spend $200,000-$250,000 on dismantling the Center if we ultimately decide to fund its continued operation.

4. Nothing in this decision should be construed as a judgment one way or another on the merits of the local energy efficiency proposal to continue operation of the FSTC.

Conclusions of Law

1. PG&E has been authorized funding for the continued operation of the Center through March 31, 2002.

2. PG&E is entitled to be reimbursed for reasonable expenses incurred after March 31, 2002 related to continued operation and/or dismantling of the Center.

If the Commission funds a third party to continue operation of the FSTC, however, PG&E shall not receive funding for the Center's dismantling.

3. If we fund a third party to continue operation of the Center in 2002, that party shall reimburse PG&E for its reasonable expenses incurred after April 1, 2002 in connection with operating the Center.

O R D E R

IT IS ORDERED that:

1. Pacific Gas & Electric Company (PG&E) shall preserve the Food Service Technology Center's (FSTC) status quo in all particulars. PG&E shall remove no infrastructure from the Center, shall continue to pay rent on the facility, and shall maintain the FSTC in its current state pending further Commission action. It shall not terminate its lease on the property that the FSTC occupies or begin any dismantling activities.

2. PG&E is authorized to establish a memorandum account, the FSTC Account, to track funds it spends in maintaining the FSTC pending further Commission action. Within 5 days of the effective date of this decision, PG&E shall file a compliance advice letter to establish this account. The advice letter shall be effective no later than March 31, 2002 upon determination by the Energy Division that it complies with this decision.

3. PG&E may recover reasonable expenses it incurs in connection with post March 31, 2002 activities related to the FSTC, including dismantling expenses if the Commission decides not to fund continued operation of the FSTC.

4. PG&E shall notify the Commission's Energy Division at ztc@cpuc.ca.gov and the assigned Administrative Law Judge for this proceeding at

srt@cpuc.ca.gov of any material variations (greater than or equal to 10% more than the figures given here) to its predicted expenditures as set forth above ($150,000/month for continued operation, and $200,000-$250,000 for dismantling).

5. PG&E shall not receive funding for dismantling activities if the Commission opts to continue funding for the Center's operation.

6. If the Commission awards funding for the Center's continued operation to a third party, that party shall reimburse PG&E for its reasonable expenses incurred after March 31, 2002 in connection with the Center's operation, not to exceed PG&E's estimate of $150,000/month (plus the allowed variance of 10%).

This order is effective today.

Dated March 21, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners

ATTACHMENT A

February 7, 2002

Assigned Commissioner Loretta Lynch
California Public Utilities Commission
505 Van Ness Avenue, 5th Floor
San Francisco, CA 94102

Dear Commissioner Lynch

Subject: Transition and/or decommissioning timing and funding for the Food Service Technology Center project.

I am writing to apprise you of a situation arising from the transition of some energy efficiency programs from the utilities to competitively-bid program implementers picked by the Commission, and seek your guidance on the appropriate path to follow.

The Food Service Technology Center (FSTC) project has been one of Pacific Gas and Electric Company's (PG&E) energy efficiency projects for many years. The FSTC facility is a leased facility of 10,000 square feet located in an office park in San Ramon. Substantial custom improvements have been made to the facility beginning in 1987, to make it suitable for conducting the physical testing and evaluation work central to the FSTC project. It was developed to provide technical support and performance evaluation of commercial food service equipment and energy-using systems under both laboratory and field conditions. The FSTC consists of a food service appliance laboratory, a production test kitchen, and a demonstration and training facility. Its target audience is restaurants, institutional kitchens, schools, hotels and other facilities, which provide food service. The FSTC was developed with pre-1998 Demand-Side Management (DSM) funds, and its operating budget has been funded by annual expense dollars, from DSM funds prior to 1998 and public goods charge energy efficiency funds after 1997.

As you know, Decision 01-11-066 authorized PG&E and the other energy utilities to continue their Program Year (PY) 2001 programs through the first quarter of 2002, at a funding level equal to approximately 10% of the annual funding. For the period after March 31, 2002, the utilities have submitted proposals to administer statewide programs, and the Commission has received some 225 proposals from various parties to implement local programs. The Commission has not authorized any specific funding for utility programs after March 31, 2002, until the Commission acts on the utility and statewide marketing proposals submitted on December 14, 2001.

Owing to the reduced funding levels available to PG&E (and the other energy utilities) for the PY 2002 program, it was necessary for PG&E to make some difficult choices and eliminate certain programs from our December 14, 2001, PY 2002 proposal. Partly because of the funding limitations and partly because it is not a statewide program, the FSTC is one program that was *not* proposed for continuation in our PY 2002 filing.

Consequently, PG&E's administration of the FSTC under the current arrangement will end March 31, 2002. To prepare for that deadline, we need to begin project decommissioning immediately. Since the Commission has made it clear that we are not to extend 2001 programs beyond March 31, PG&E has little choice but to begin planning the decommissioning immediately, so that the physical work can be started by March 1 and completed by March 31. Vacating that space and returning it to a suitable condition (as required by the lease) to the owner is currently estimated to cost between $200,000 and $250,000.

Complicating the decision is the fact that Fisher-Nickel, Inc. (FNi), the current contractor implementing the FSTC's programs, has submitted a proposal to continue the FSTC operation as a third party, local program. If we decommission the facility, there will be no FSTC for FNi to operate if it wins a contract. Finding a new site, or re-building the old site, would certainly be more costly and time-consuming than simply taking over the existing facilities. We do not wish to speak for FNi, but it appears that their proposal (1) does not include such costs and (2) presumes an orderly transition of the space from the current arrangement to a future arrangement amenable to all parties.

We realize no decisions have been on third party programs yet, and we are not trying to influence you in any way on the merits of FNi's proposal. Their proposal should stand or fall on its own merits. What we are concerned about are the many transition costs of this nature, and the timing of our close-out activities.

Absent direction from you, we cannot incur further operation and maintenance costs of the FSTC (of approximately $150,000/month) beyond March 31, 2002, and will decommission the FSTC prior to that date. Since the FSTC was built with pre-1998 DSM dollars, it would seem appropriate to charge the decommissioning costs to the pre-1998 DSM balancing account, which currently has a sufficient surplus to cover the cost.

If the Commission desires that the FSTC stay in existence until the local program proposals are sorted out, it is essential that you, the assigned ALJ or the Energy Division, consistent with Ordering Paragraph 11 of Decision 01-11-066, provide PG&E (1) specific authorization to continue its operation beyond March 31, 2002 and (2) specific authorization to collect and expend PY2002 PGC funds to cover the transitional costs beyond March 31, funds *incremental* to our PY2002
Assigned Commissioner Loretta Lynch, page 3

proposal. We will require such notification not later than March 1, 2002 in order to provide sufficient time for us to decommission the facility by March 31, 2002. Absent direction from you, we will begin decommissioning activities as indicated.

Thank you for your attention to this matter. We would be pleased to meet with you or your designated advisor on this matter if you would like additional details.

Sincerely,

Robert B. McLennan

cc: ALJ Sarah Thomas
Julie Fitch – Energy Division
All parties in R.01-08-028

(END OF ATTACHMENT A)

ATTACHMENT B

STATE OF CALIFORNIA GRAY DAVIS, *Governor*

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

February 28, 2002

VIA U.S. MAIL AND FACSIMILE (415) 973-0516

Robert McLennan
Pacific Gas and Electric Company
Law Department
PO Box 7442
San Francisco, CA 94120

Re: Food Service Technology Center / Rulemaking 01-08-028

Dear Mr. McLennan

The Commission has reviewed your attached letter regarding PG&E's plan to begin dismantling the Food Service Technology Center (FSTC or Center), a Commission funded energy efficiency program for the food service industry. Since PG&E's notification, the Commission has heard from several parties who attest to the Center's usefulness in promoting energy savings, including the University of California – Riverside, Denny's Restaurants, the California Energy Commission, and the U.S. Department of Energy.

Without prejudging whether to continue the FSTC's operation by a third party, it seems appropriate at least to allow the Commission the time to make this decision. This opportunity is lost if the Center is dismantled before the Commission issues a decision on all third party proposals for local energy efficiency programs, a decision expected in April-May 2002 timeframe. Thus, the Commission urges PG&E to halt the dismantling of the Center, which is slated to begin on March 1. At its March 21, 2002, meeting, the Commission will consider an item addressing PG&E's need to recover reasonable expenses for keeping the FSTC open until the Commission reaches its decision on third party proposals for local energy efficiency programs. This meeting represents the Commission's earliest opportunity to address this issue while following proper notification procedures. In addition, this forthcoming item will address PG&E's proposal in its letter to use pre-1998 Demand Side Management (DSM) funds to dismantle the FSTC should the Commission decide not to fund future proposals to continue running the Center.

The Commission would like to thank PG&E for bringing this item to its attention. It is essential that all parties work together to ensure a smooth transition to the proposed change in energy efficiency funding. Please contact the Commission if the procedures laid forth in this letter are not sufficient to delay PG&E's dismantling of the Center. Thank you for your attention to this matter.

Very truly yours,

/s/ WESLEY FRANKLIN by LTC

(END OF ATTACHMENT B)

Wesley Franklin
Executive Director